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NEW MILLENNIUM TELECOMMUNICATIONS, INC.)

COMPLAINANT,)

v.)

MCI/WORLDCOM TELECOMMUNICATIONS,)

RESPONDENT.)

Docket No.

01-0540

VERIFIED COMPLAINT

NEW MILLENNIUM TELECOMMUNICATIONS, INC. ("NMT"), a telecommunications carrier, complains of MCI/Worldcom ("MCI"), a telecommunications carrier, pursuant, but not limited to Sections 13-514, 13-515, 13-516, 13-902 of the Public Utilities Act ("Act"), 220 ILCS 5/514, 5/13-515, 5/13-516, 5/13-902 and Section 200.170 of the Commission's Rules of Practice, 83 Ill. Admn. Code section 200.170 ("Code") the following:

I.

STATEMENT OF THE CASE

1. NMT alleges that MCI, a telecommunications carrier as defined by the Act, has impeded the development of competition by continuing to switch NMT's

residential customers, without the residential customers' knowledge or authorization, to MCI's local service. NMT informed MCI of this illegal practice. Nevertheless, MCI continues to switch NMT's residential customers, without the residential customers' knowledge or authorization, to its local service. Such practice, as more fully set forth herein, violates the Act in that MCI has unreasonably impaired the quality and efficiency of services provided by NMT and has unreasonably acted in a manner that has a substantial adverse effect on the ability of NMT to provide service to its customers. MCI has also violated the Act in that MCI failed to obtain separate authorization from NMT's customers for each of its services. Therefore, NMT seeks, by this action, emergency relief, damages, attorney's fees, costs and penalties, as more fully set forth herein.

II.

PARTIES

2. MCI is doing business in the State of Illinois, and is a telecommunications carrier as defined in Section 13-202 of the Act. 220 ILCS 5/13-202.
3. NMT is a corporation organized under the laws of the State of Illinois, and is a telecommunications carrier as defined in Section 13-202 of the Act. 220 ILCS 5/13-202.

III.

AUTHORITY

4. NMT is a telecommunication carrier within the State of Illinois that has the license and right to engage in providing telecommunication services to end users, including residential end users. 220 ILCS 5/13-202, 5/13-217, 5/13-219.
5. MCI is a telecommunications carrier doing business within the State of Illinois and is engage in providing telecommunication services to end users, including residential end users. 220 ILCS 5/13-202, 5/13-217, 5/13-219.
6. Section 13-515(d) of the Public Utilities Act provides, in relevant part, as follows:

A telecommunications carrier may file a complaint with the Commission with the Commission alleging a violation of Section 13-514 in accordance with this subsection...
220 ILCS 5/13-515(d).

7. Section 13-902(g) of the Public Utilities Act provides, in relevant part, as follows:

Complaints may be filed with the Commission under this Section by a subscriber whose telecommunications service has been provided by an unauthorized telecommunications carrier as a result of an unreasonable delay, by a subscriber whose telecommunications carrier has been changed to another telecommunications carrier in a manner not in compliance with this Section, by a subscriber's authorized telecommunications carrier that has been removed as a subscriber's telecommunications carrier in a manner not in compliance with this Section, by a subscriber's authorized submitting carrier whose change order was delayed unreasonably, or by the Commission on its own motion.
220 ILCS 5/13-902(g).

MCI is subject to various laws and regulations that require it, inter alia, to provide telecommunication services in a manner that : 1) does not impede the development of competition in any telecommunications service market; 2) does not have a substantial adverse effect on the ability of another telecommunications carrier to provide service to its customers; 3) does not unreasonably impair the quality or efficiency of services used by another telecommunications carrier; and 4) obtains the proper authorization and verification of its subscribers.

IV.

APPLICABLE LAWS AND REGULATIONS

8. Section 13-514 of the Act, 220 ILCS 5/13-514, provides in relevant part, that:

A telecommunications carrier shall not knowingly impede the development of competition in any telecommunications service market. The following prohibited actions are considered per se impediments to the development of competition; however, the Commission is not limited in any manner to these enumerated impediments and may consider other actions which impede competition to be prohibited:

....
(2) unreasonably impairing the speed, quality, or efficiency of services used by another telecommunications carrier;

...
(6) unreasonably acting or failing to act in a manner that has a substantial adverse effect on the ability of another telecommunications carrier to provide service to its customers;

9. Section 13-515 of the Act, 220 ILCS 5/13-515, provides in relevant part, that:

(a) The following expedited procedures shall be used to enforce the provisions of Section 13-514 of this Act except as provided in subsection (b). However, the Commission, the complainant, and the respondent may mutually agree to adjust the procedures established in this Section....

...

- (c) No complaint may be filed under this Section until the complainant has first notified the respondent of the alleged violation and offered the respondent 48 hours to correct the situation. Provision of notice and the opportunity to correct the situation creates a rebuttable presumption of knowledge under Section 13-514. After the filing of a complaint under this Section, the parties may agree to follow the mediation process under Section 10.101.1 of this Act. The time periods specified in subdivision (d)(7) of this Section shall be tolled during the time spent in mediation under Section 10-101.1.
- (d) A telecommunications carrier may file a complaint with the Commission alleging a violation of Section 13-514 in accordance with this subsection.
- (e) If the alleged violation has a substantial adverse effect on the ability of the complainant to provide service to customers, the complainant may include in its complaint a request for an order for emergency relief. The Commission, acting through its designated hearing examiner or arbitrator, shall act upon such a request within 2 business days of the filing of the complaint. An order for emergency relief may be granted, without an evidentiary hearing, upon a verified factual showing that the party seeking relief will likely succeed on the merits, that the party will suffer irreparable harm in its ability to serve customers if emergency relief is not granted, and that the order is in the public interest...

10. Section 13-516 of the Act, 220 ILCS 5/13-516, provides in relevant part, that:

- (a) In addition to any other provision of this Act, all of the following remedies may be applied for violations of Section 13-514:
 - (1) A Commission order directing the violating telecommunications carrier to cease and desist from violating the Act or a Commission order or rule...
 - (2) The Commission shall award damages, attorney's fees, and costs to any telecommunications carrier that was subjected to a violation of Section 13-514....

11. Section 13-902(c) of the Act, 220 ILCS 5/13-902(c), provides in relevant part, that:

- (c) Authorization and verification of orders for telecommunications service.

- (1) No telecommunications carrier shall submit or execute a change on behalf of a subscriber in the subscriber's selection of a provider of telecommunications service except in accordance with the procedures prescribed in this subsection.
- (2) No submitting carrier shall submit a change on behalf of a subscriber in the subscriber's selection of a provider of telecommunications service prior to obtaining:
 - (A) authorization from the subscriber; and
 - (B) verification of that authorization in accordance with the procedure prescribed in this Section.

...

- (5) Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., Sect local exchange, intraLATA/intrastate toll, and international toll), that carrier must obtain separate authorization from the subscriber for each service sold, although the authorizations may be made within the same solicitation. Each authorization must be verified separately from any other authorizations obtained in the same solicitation. Each authorization must be verified in accordance with the verification procedures prescribed in this Section.

12. Section 13-902(g) of the Act, 220 ILCS 5/13-902(g), provides in relevant part that:

(g) Complaints may be filed with the Commission under this Section by a subscriber whose telecommunications service has been provided by an unauthorized telecommunications carrier as a result of an unreasonable delay, by a subscriber whose telecommunications carrier has been changed to another telecommunications carrier in a manner not in compliance with this Section, by a subscriber's authorized telecommunications carrier that has been removed as a subscriber's telecommunications carrier in a manner not in compliance with this Section, by a subscriber's authorized submitting carrier whose change order was delayed unreasonably, or by the Commission on its own motion.

Upon filing of the complaint, the parties may mutually agree to submit the complaint to the Commission's established mediation process. Remedies in the mediation process may include, but shall not be limited to, the remedies set forth in this subsection. In its discretion, the Commission may deny the availability of the mediation process and submit the complaint to hearings. If the complaint is not submitted to mediation or if no agreement is reached during mediation process, hearings shall be held on the complaint. If, after notice and hearing, the Commission finds that a telecommunications carrier has violated this Section or a rule promulgated under this Section, the Commission may in its discretion do any one or more of the following:

...

- 3) Require the violating telecommunications carrier to pay to the subscriber's authorized telecommunications the amount the authorized carrier would have collected for the telecommunications service. The Commission is authorized to reduce this payment by any amount already paid by the violating telecommunications carrier to the subscriber's authorized telecommunications carrier for those telecommunications services.
- 4) Require the violating telecommunications carrier to pay a fine up to \$1,000 into the Public Utility Fund for each repeated and intentional violation of this Section.
- 5) Issue a cease and desist order.
- 6) For a pattern of violation of this Section or for intentionally violating a cease and desist order, revoke the violating telecommunications carrier's certificate of service authority....

IV.

STATEMENT OF FACTS

12. On or about May 13, 2001, NMT received a call from one of its residential customers complaining that her local service had been switched to MCI without her knowledge or authorization.

13. On the same day, Will Watkins, Chief Financial Officer of NMT, spoke to the customer and she informed him that her service had been switched to MCI without her knowledge or authorization.
14. Mr. Watkins performed an inquiry that verified that MCI was providing her local service. Mr. Watkins informed the customer that NMT had no knowledge, prior to her call, that her local service was switched to MCI. Next, Mr. Watkins, with the customer on the phone, called MCI's customer service number and asked to speak to a manager.
15. When the manager came to the phone, Mr. Watkins, along with the customer, informed the manager that the customer had been switched without her knowledge or authorization. Mr. Watkins also asked what type of third party verification does MCI perform. The manager stated MCI does not do third party verification and had no record of the customer's request to be switched.
16. Mr. Watkins then informed the manager that switching a customer without his knowledge or authorization is illegal. He also requested MCI to cease and desist such practice. Finally, he told the manager that this practice violates the rights of the customer and jeopardizes the business of NMT.
17. Since May 13, 2001, NMT has received more complaints about MCI's practice of switching NMT's customers to MCI's local service without authorization.

18. As of the date of this complaint and to the best of NMT's knowledge, MCI continues to switch NMT's residential customers to MCI's local service without the customer's authorization or verification.

COUNT I

VIOLATION OF SECTION 13-514

- 1-19. NMT realleges and in reincorporates paragraphs 1 through 19 of this Complaint as paragraphs 1 through 19 of this Count I, as though fully alleged herein.
20. By MCI's continuing practice of switching NMT's residential customers, without their knowledge or authorization, to MCI's local service, MCI violated Section 13-514 of the Act in that: 1) MCI is knowingly impeding the development of competition in the telecommunications service market; 2) unreasonably impairing the quality and efficiency of services of NMT; 3) unreasonably acting in a manner that has a substantial effect on the ability of NMT to provide service to its customers.
21. NMT is suffering irreparable harm in its ability to serve its customers;
22. Emergency relief is necessary.

WHEREFORE, NMT prays this Commission find that Respondent has violated the Act as alleged herein, and enter an **EMERGENCY ORDER**:

- A. Finding that MCI has violated section 13-514 of the Act.

- B. Requiring that MCI cease and desist its practice of switching NMT's customers to MCI's local service without the customers' knowledge or authorization.
- C. Grant NMT damages in the amount of \$500,000.
- D. Grant NMT all its attorney fees and costs.
- E. Impose any penalties the Commission deems appropriate.
- F. Grant any other relief herein as will promote the development of competition in the telecommunications service market, or that justice and equity may otherwise require.

COUNT II

VIOLATION OF SECTION 13-902


- 1-19. NMT realleges and reincorporates paragraphs 1 through 19 of this Complaint as paragraphs 1 through 19 of this Count II, as fully alleged herein.
- 20. By MCI's continuing practice of switching NMT's customers, without their knowledge or authorization, to MCI's local service, MCI violated section 13-902 of the Act, in that MCI failed to obtain separate authorization from the subscriber for each service sold.

WHEREFORE, NMT prays that this Commission find that Respondent has violated the Act as alleged herein, and enter an order:

- A. Finding that MCI has switched customers of NMT without authorization.
- B. Requiring that MCI cease and desist its practice of switching NMT's customers to MCI's local service without the customers' authorization.
- C. Require MCI to pay NMT the amount NMT would have collected for the telecommunications service in the amount of \$500,000.
- D. Impose any penalties the Commission deems appropriate.
- E. Grant any other relief herein as will promote the development of competition in the telecommunications service market, or that justice and equity may otherwise require.

Respectfully Submitted,

New Millennium Telecommunications, Inc.

By: 
Will Watkins
Chief Financial Officer

STATE OF ILLINOIS

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SS.

COUNTY OF COOK

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VERIFICATION

I, Will Watkins, who, after being sworn, deposes and says:

1. I am the Chief Financial Officer of New Millennium Telecommunications, Inc.
2. I have read the facts in this Complaint.
3. The facts alleged therein are true and correct to the best of my knowledge and belief.

Will Watkins
Will Watkins

SUBSCRIBED and SWORN to
Before me this 17th day of
August, 2001

Shannon L. Roark
Notary Public



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

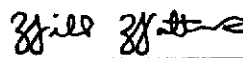
AFFIDAVIT

I, Will Watkins, who, after being sworn, deposes and says:

1. I am the Chief Financial Officer of New Millennium Telecommunications, Inc. ("NMT").
2. On or about May 13, 2001, NMT received a call from one of its residential customers complaining that her local service had been switched to MCI/Worldcom ("MCI") without her knowledge or authorization.
3. I spoke to the customer and she informed me that her service had been switched to MCI without her knowledge or authorization.
4. I performed an inquiry that verified that MCI was providing her local service. I informed the customer that NMT had no knowledge, prior to her call, that her local service was switched to MCI. Next, I, along with the customer on the phone, called MCI's customer service number and asked to speak to a manager.
5. When the manager came to the phone, I, along with the customer, informed the manager that the customer had been switched without her knowledge or authorization. I also asked what type of third party verification does MCI perform. The manager stated MCI does not do

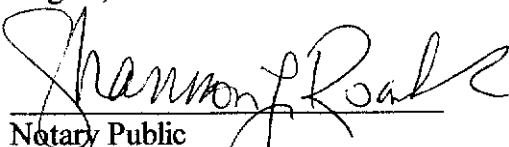
third party verification and had no record of the customer's request to be switched.

6. I then informed the manager that switching a customer without his knowledge or authorization is illegal. I also requested MCI to cease and desist such practice. Finally, I told the manager that this practice violates the rights of the customer and jeopardizes the business of NMT.
7. Since May 13, 2001, NMT has received more complaints about MCI's practice of switching NMT's customers to MCI's local service without authorization.
8. I have been informed by my counsel that my communication with MCI concerning the switching of NMT's customers without authorization is sufficient to satisfy the notice provision of Section 13-515 (c) of the Public Utilities Act. 220 ILCS 5/13-515 (c).



Will Watkins

SUBSCRIBED and SWORN to
Before me this 17th day of
August, 2001


Notary Public



STATE OF ILLINOIS

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SS.

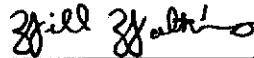
COUNTY OF COOK

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PROOF OF SERVICE

I, Will Watkins, who, after being sworn, deposes and says:

On August 17, 2001, I caused to be served the complaint of New Millennium Telecommunications, Inc. against MCI/Worldcom, Inc. on all parties on the attached service list by hand delivery, fed ex, or U.S. mail.

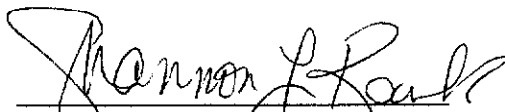


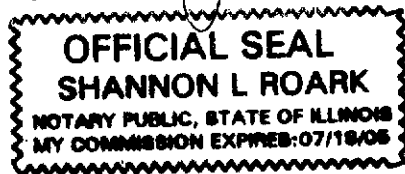
Will Watkins

Chief Financial Officer

New Millennium Telecommunications, Inc.

SUBSCRIBED and SWORN to
Before me this 17th day of
August, 2001


Notary Public



SERVICE LIST

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